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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,387	05/09/2006	Jukka Gynther	06267.0127	6312
22852	7590	08/17/2007	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			CHU, YONG LIANG	
		ART UNIT	PAPER NUMBER	
		1626		
		MAIL DATE	DELIVERY MODE	
		08/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/541,387	GYNTHER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yong Chu	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 June 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8, and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) 2-4 and 13-15 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 5-8 is/are rejected.
- 7) Claim(s) 1, and 5-8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 01/04/2006.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

Claims 1-8, and 13-15 are currently pending in the instant application. Claims 2-4, and 13-15 were withdrawn.

### ***Information Disclosure Statement***

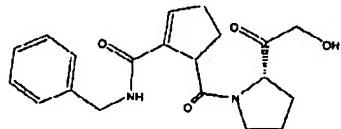
Applicant's Information Disclosure Statement, filed on 01/04/2007, has been considered. Please refer to Applicant's copy of the PTO-1449 submitted herewith.

### ***Priority***

This application is a 371 of PCT/FI04/00001, filed on 01/02/2004. Applicants claim benefit of Finland Patent Application 20030014 under 35 U.S.C. § 119(a-d), filed on 01/03/2003.

### ***Response to Restriction***

The response to the restriction request with provisionally election of Group II (e.g. claims 1-8, wherein X is C) with election of species of the compound of example 2



*with traverse by Applicants' representative, Jill K. MacAlpine*

dated on 06/13/2006, has been considered. Applicant's arguments on pages 2-3 of the Remarks have been fully considered but they are not persuasive. Please refer to the previous Office action. The restriction requirement thus is maintained.

### ***Status of the Claims***

Claims 1, 5-8 are to be examined on the merits.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, and 5-8 are rejected under 35 U.S.C § 112, 2<sup>nd</sup> paragraph for lack of antecedent base. Claim 1 recites the limitation "R<sub>2</sub> is a straight or branched alkyl chain.. in the meaning of R<sub>2</sub>" in claim 1. However, the proviso on pages 4-5 of claim 1 define "when X is C, .. R<sub>2</sub> is H". In another word, this proviso, R<sub>2</sub> limits the substituent to H only. There is insufficient antecedent basis for this limitation in the claim.

***Claim Objections***

Claim 1 is objected to because of the following informalities: "a) when X is C, the dotted line represents a double bond and R<sub>2</sub> is H; and b)" is repeatedly cited in claim 1, and should be deleted. Appropriate correction is required.

Claim 5 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claims 1 and 5 both claim a compound of formula (I) with the dotted line is a double bond, and R<sub>2</sub> is H, and the remained substituents are as defined in claim 1. Therefore, claim 5 is considered duplicate claim of claim 1. This objection can be overcome by canceling claim 1.

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***Conclusion***

- Claims 1, and 5-8 are rejected.
- Claims 1, and 5-8 are objected.

***Telephone Inquiry***

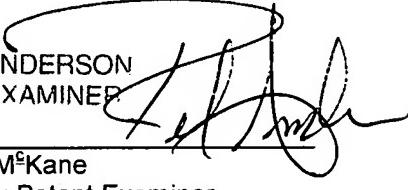
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu whose telephone number is 571-272-5759. The examiner can normally be reached between 7:00 am - 3:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. M<sup>c</sup>Kane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Yong Chu, Ph.D.  
Patent Examiner  
Art Unit 1626

REBECCA ANDERSON  
PRIMARY EXAMINER

  
Joseph K. M<sup>c</sup>Kane  
Supervisory Patent Examiner  
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